

# Senate Study Bill 1105

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
AGRICULTURE BILL BY  
CHAIRPERSON FRAISE)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to motor vehicle fuel by establishing standards  
2 for the sale of such fuel, providing tax credits, and making  
3 penalties applicable.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1604XC 82  
6 da/es/88

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1 1 Section 1. Section 159A.6, subsection 2, unnumbered  
1 2 paragraph 2, Code 2007, is amended to read as follows:  
1 3 The committee shall develop standards for decals required  
1 4 pursuant to section 214A.16, which shall be designed to  
1 5 promote the advantages of using ~~renewable fuels~~ biodiesel  
1 6 blended fuel. The standards may be incorporated within a  
1 7 model decal adopted by the committee and approved by the  
1 8 office.  
1 9 Sec. 2. Section 214A.1, Code 2007, is amended by adding  
1 10 the following new subsection:  
1 11 NEW SUBSECTION. 21A. "Unblended gasoline" means gasoline  
1 12 other than ethanol blended gasoline.  
1 13 Sec. 3. NEW SECTION. 214A.2B STANDARDS FOR GASOLINE  
1 14 ADVERTISED, SOLD, OR DISPENSED BY A RETAIL DEALER == ETHANOL  
1 15 BLEND REQUIREMENT AND EXCEPTIONS.  
1 16 1. Except as otherwise provided in this section, a retail  
1 17 dealer shall not advertise, sell, or dispense unblended  
1 18 gasoline in this state.  
1 19 2. A retail dealer may advertise, sell, or dispense  
1 20 unblended gasoline in this state if all of the following  
1 21 apply:  
1 22 a. The unblended gasoline is used to operate a motor which  
1 23 powers a qualified motor vehicle which is any one of the  
1 24 following:  
1 25 (1) An aircraft as defined in section 328.1.  
1 26 (2) A motor vehicle used exclusively for motor sports,  
1 27 including on a raceway, if the motor vehicle cannot operate on  
1 28 a highway as provided in chapter 321 or rules adopted by the  
1 29 state department of transportation.  
1 30 (3) An antique vehicle registered under section 321.115.  
1 31 (4) A snowmobile as defined in section 321G.1.  
1 32 (5) An all-terrain vehicle as defined in section 321G.1.  
1 33 (6) A watercraft as defined in section 462A.2.  
1 34 (7) A lawnmower or other implement powered by a small  
1 35 motor.  
2 1 b. The retail dealer does not use more than one metered  
2 2 pump located at a retail motor fuel site to advertise, sell,  
2 3 or dispense unblended gasoline.  
2 4 3. A retail dealer may advertise, sell, or dispense  
2 5 unblended gasoline at a retail motor fuel site owned or  
2 6 operated by the retail dealer pursuant to a waiver issued by  
2 7 the department to the retail dealer.  
2 8 a. The department shall only issue a waiver to a retail  
2 9 dealer after approving an application submitted to the  
2 10 department by the retail dealer in a manner and according to  
2 11 procedures required by the department which application  
2 12 demonstrates that the retail dealer is not able to reasonably  
2 13 obtain ethanol blended gasoline for sale at the retail motor  
2 14 fuel site.  
2 15 b. A waiver issued under this subsection expires six  
2 16 months from the date of issuance. However, a retail dealer  
2 17 who has been issued a waiver may apply for and be issued any

2 18 number of subsequent waivers.

2 19 4. a. A retail dealer may advertise, sell, or dispense  
2 20 unblended gasoline at a retail motor fuel site owned or  
2 21 operated by the retail dealer without restriction as otherwise  
2 22 provided in this section until January 1, 2008.

2 23 b. This subsection is repealed on January 1, 2008.

2 24 Sec. 4. Section 214A.3, Code 2007, is amended by adding  
2 25 the following new subsection:

2 26 NEW SUBSECTION. 3. A retail dealer who advertises the  
2 27 sale of gasoline that is not ethanol blended gasoline shall  
2 28 refer to the gasoline as unblended gasoline.

2 29 Sec. 5. Section 214A.16, Code 2007, is amended to read as  
2 30 follows:

2 31 214A.16 NOTICE OF ~~BLENDED~~ BIODIESEL OR UNBLENDED FUEL ==  
2 32 DECAL.

2 33 1. a. If motor fuel containing a ~~renewable biodiesel~~ fuel  
2 34 is sold from a motor fuel pump, the pump shall have affixed a  
2 35 decal identifying the ~~name of the renewable biodiesel~~ fuel.

3 1 ~~The decal may be different based on the type of renewable fuel~~  
3 2 ~~used. The design and location of the decal shall be~~  
3 3 ~~prescribed by rules adopted by the department.~~

3 4 b. A decal identifying a ~~renewable biodiesel~~ fuel shall be  
3 5 consistent with standards adopted pursuant to section 159A.6.

3 6 2. If unblended gasoline is advertised for sale, sold, or  
3 7 dispensed from a metered pump, the metered pump shall have  
3 8 affixed a decal. The decal shall identify the gasoline as  
3 9 unblended gasoline and provide notice of any restricted use as  
3 10 specified in section 214A.2B.

3 11 3. The design and location of a decal shall be prescribed  
3 12 by rules adopted by the department. The department may

3 13 approve an application to place a decal in a special location  
3 14 on a pump or container or use a decal with special lettering  
3 15 or colors, if the decal appears clear and conspicuous to the  
3 16 consumer. The application shall be made in writing pursuant  
3 17 to procedures adopted by the department.

3 18 Sec. 6. Section 422.11C, subsection 7, Code 2007, is  
3 19 amended to read as follows:

3 20 7. This section is repealed on January 1, ~~2009~~ 2008.

3 21 Sec. 7. Section 422.11O, subsection 5, Code 2007, is  
3 22 amended by striking the subsection.

3 23 Sec. 8. Section 422.33, subsection 11, paragraph e, Code  
3 24 2007, is amended to read as follows:

3 25 e. This subsection is repealed on January 1, ~~2009~~ 2008.

3 26 Sec. 9. Section 422.33, subsection 11A, Code 2007, is  
3 27 amended by striking the subsection.

3 28 Sec. 10. 2006 Iowa Acts, chapter 1142, section 49,  
3 29 subsection 1, is amended to read as follows:

3 30 1. For a retail dealer who may claim a designated ethanol  
3 31 blended gasoline tax credit under section 422.11C or 422.33,  
3 32 subsection 11, as amended by this Act, in calendar year ~~2008~~  
3 33 2007 and whose tax year ends prior to December 31, ~~2008~~ 2007,  
3 34 the retail dealer may continue to claim the tax credit in the  
3 35 retail dealer's following tax year. In that case, the tax  
4 1 credit shall be calculated in the same manner as provided in  
4 2 section 422.11C or 422.33, subsection 11, as amended by this  
4 3 Act, for the remaining period beginning on the first day of  
4 4 the retail dealer's new tax year until December 31, ~~2008~~ 2007.  
4 5 For that remaining period, the tax credit shall be calculated  
4 6 in the same manner as a retail dealer whose tax year began on  
4 7 the previous January 1 and who is calculating the tax credit  
4 8 on December 31, ~~2008~~ 2007.

4 9 Sec. 11. Section 422.11N, Code 2007, is repealed.

4 10 EXPLANATION

4 11 BACKGROUND. This bill amends Code chapter 214A, which  
4 12 provides authority to the department of agriculture and land  
4 13 stewardship (department) to regulate the sale of motor fuel,  
4 14 including renewable fuel such as ethanol blended gasoline.  
4 15 Code section 214A.2 provides for different types of gasoline  
4 16 and establishes standards or specifications for gasoline, in  
4 17 part based on ASTM international standards.

4 18 ETHANOL BLENDED GASOLINE REQUIREMENT. The bill creates a  
4 19 new requirement that a retail dealer advertising, selling, or  
4 20 dispensing gasoline must use ethanol blended gasoline (i.e.,  
4 21 gasoline containing at least a 10 percent blend of ethanol  
4 22 according to the standards provided in Code section 214A.2).  
4 23 Gasoline which does not meet this requirement is termed  
4 24 "unblended gasoline" and a retail dealer is prohibited from  
4 25 advertising, selling, or dispensing unblended gasoline.

4 26 EXCEPTIONS. Notwithstanding the prohibition, the bill  
4 27 provides exceptions which allow a retail dealer to continue to  
4 28 advertise, sell, or dispense unblended gasoline.

4 29 First, the prohibition does not apply to gasoline used to  
4 30 operate aircraft, or motor vehicles involved exclusively in  
4 31 motor sports events. The requirement also does not apply to  
4 32 gasoline for use in certain vehicles such as antique vehicles,  
4 33 snowmobiles, all-terrain vehicles, watercraft, and small  
4 34 motors. The bill prohibits a retail dealer from using more  
4 35 than one metered pump to dispense unblended gasoline.

5 1 Second, the prohibition does not apply to a retail dealer  
5 2 who has been issued a waiver by the department because the  
5 3 retail dealer has not been able to reasonably obtain ethanol  
5 4 blended gasoline for sale at the retail motor fuel site. The  
5 5 waiver expires six months from the date of issuance. However,  
5 6 a retail dealer who has been issued a waiver may apply for any  
5 7 number of subsequent waivers.

5 8 Third, a retail dealer may continue to advertise, sell, or  
5 9 dispense unblended gasoline from one or more metered pumps  
5 10 located at a retail motor fuel site until January 1, 2008.

5 11 ADVERTISING. The bill provides that a retail dealer must  
5 12 affix a decal on each metered pump which dispenses unblended  
5 13 gasoline, notifying the public of its designation and any  
5 14 restricted use. The bill eliminates a requirement that a  
5 15 metered pump dispensing ethanol blended gasoline be affixed  
5 16 with a decal.

5 17 CURRENT, APPLICABLE PENALTIES. Code section 214A.11  
5 18 provides that a person who violates a provision of Code  
5 19 chapter 214A is guilty of a serious misdemeanor, and that each  
5 20 day that a continuing violation occurs is considered a  
5 21 separate offense. A serious misdemeanor is punishable by  
5 22 confinement for no more than one year and a fine of at least  
5 23 \$315 but not more than \$1,875. The Code section also provides  
5 24 that in lieu of seeking a prosecution, the state may proceed  
5 25 against the person by initiating an alternative civil  
5 26 enforcement action as a contested case proceeding by the  
5 27 department under Code chapter 17A or as a civil judicial  
5 28 proceeding by the attorney general upon referral by the  
5 29 department. The applicable civil penalty is at least \$100 but  
5 30 not more than \$1,000 for each violation. Each day that a  
5 31 continuing violation occurs shall be considered a separate  
5 32 offense.

5 33 ELIMINATION OF TAX CREDITS. During the 2006 legislative  
5 34 session, the general assembly enacted H.F. 2754 (2006 Iowa  
5 35 Acts, ch. 1142) eliminating a designated ethanol blended  
6 1 gasoline tax credit as of January 1, 2009, and creating two  
6 2 new tax credits: (1) the ethanol promotion tax credit, and  
6 3 (2) the E=85 gasoline promotion tax credit. The bill  
6 4 eliminates the designated ethanol blended gasoline tax credit  
6 5 and the ethanol promotion tax credit.

6 6 DESIGNATED ETHANOL BLENDED GASOLINE TAX CREDIT. The  
6 7 current tax credit provides that a retail dealer is eligible  
6 8 to receive a tax credit on 60 percent or more of the ethanol  
6 9 blended gasoline sold and distributed from each retail motor  
6 10 fuel site. The tax credit is to be eliminated on January 1,  
6 11 2009, but there is a special provision which allows a retail  
6 12 dealer whose tax year is not based on a calendar year to  
6 13 continue to the claim the tax credit until the end of the  
6 14 retail dealer's fiscal year. The bill amends those provisions  
6 15 by providing that the tax credit is to be eliminated on  
6 16 January 1, 2008, but providing a delay to retail dealers with  
6 17 a tax year not corresponding to the calendar year.

6 18 ETHANOL PROMOTION TAX CREDIT. This tax credit is effective  
6 19 January 1, 2009, and replaces the designated ethanol blended  
6 20 gasoline tax credit. In order to receive this tax credit, a  
6 21 retail dealer must calculate the retail dealer's biofuel  
6 22 distribution percentage, which is the sum of the retail  
6 23 dealer's total ethanol gallonage plus the retail dealer's  
6 24 total biodiesel gallonage expressed as a percentage of the  
6 25 retail dealer's total gasoline gallonage in the retail  
6 26 dealer's applicable determination period (calendar year). The  
6 27 bill eliminates this tax credit.

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